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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/921,504	08/02/2001	Daniel R. Drake	RSW920010025US1	6105

46270 7590 06/19/2007
IBM CORPORATION (SYL-RSW)
C/O SYNNESTVEDT & LECHNER LLP
1101 MARKET STREET, SUITE 2600
PHILADELPHIA, PA 19107

EXAMINER

KENDALL, CHUCK O

ART UNIT	PAPER NUMBER
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2192

MAIL DATE	DELIVERY MODE
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06/19/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/921,504
Filing Date: August 02, 2001
Appellant(s): DRAKE ET AL.

Mark D. Simpson, Reg. No. 32,942
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 09/16/05 appealing from the Office action mailed 11/10/04.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

(8) Evidence Relied Upon

Sharder	USPN 5,867,713	02/02/1999
Parathesarathy	USPN 6,353,926	03/05/2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 15 and 21 rejected under 35 U.S.C. 103(a) as being unpatentable over Shrader et al. U.S. Patent No. 5,867,713 in view of Parathesarathy U.S. Patent No. 6,353,926. This rejection is set forth in prior Office Action, mailed on 11/10/2004, wherein all claimed limitations have been previously rejected.

The amendment after final of 04/11/05, which amends claims 15 and 21 with previously addressed limitations has been entered and rejected below as follows.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15 and 21 are rejected under 35 U.S.C. 103(a) as being anticipated by Shrader et al. USPN 5,867,713 (hereinafter "Shrader") in view of Parathesarathy et al. USPN 6,353,926 B1.

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Regarding claim 15, Shrader discloses a method (24: 1 – 25: 10), system (25:10 – 26:5) and computer program product (26:5 – 33) of integrating the installation, on one or more target machines, of software prerequisites with a to-be-installed (TBI) (2: 47, see to be installed as well) software application, comprising the steps of:

means for determining if said TBI software application requires any software prerequisites (2: 30 – 35, for prerequisite objects and also refer to 2: 47 – 50, for prevalidated);

means obtaining location information for all required software prerequisites (2: 35 – 37, see necessary files to install);

means for creating a super image comprising the TBI software application wrapped with said software prerequisites (for super image, see 2: 40 – 45, for install plan object); and

means for distributing said super image to all machines on which said software application is to be installed (2:45 – 48, see application program to be installed) wherein:

said means for creating a super image comprises at least:

means for defining an object model representing the integrated software installation (for object model see, install plan object in 2: 40 – 45, for install plan object);

means for populating the object model with attributes and methods to describe the TBI software application and the location information for said

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required software prerequisites (2: 47 – 50 , see adding child objects to installation plan if required).

means for instantiating one or more objects according to the defined object model, and whereby said means for instantiating instantiates an object for the TBI software application and one or more component objects for each of said prerequisites and said populating step populates the instantiated object(s) (see 7: 23 – 26, for reuse and instances (instantiating) of objects for multiple plan objects);

and wherein said system further comprises means for using populated object model to install the TBI software application, said means for using populated object model further comprising at least:

means for identifying one or more target machines on which the TBI software application is to be installed (8:9 –16 & 25 – 35);

means for downloading the super image to the identified target machines (6: 15 – 18, see other workstations in the network and receive software images);
and

means for performing an installation at each of the identified target machines using the downloaded super image (FIG. 10, 1015, 1025).

Shrader doesn't explicitly disclose location information for all software prerequisites. Shrader does mention being able to add additional child objects to the installation plan if required (2: 45 – 50). Parathesarathy in an analogous art discloses a manifest file which can be embedded in jar file for distribution stating the manifest file contains dependencies between different software and the ability

to locate and install required software components (6: 50 – 57). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Shrader and Parathesarathy because, it would enable the install program to be able to locate and install all required files.

Claim 21, a system as set forth in claim 15, wherein said super image is a temporary file that is deleted from said target machines upon completion of the installation process (16:1 – 5, see removed as executed).

(10) Response to Argument

ARGUMENT

A. Applicant argues that Examiner has not established a *prima facie* Case of Obviousness by providing a suggestion or motivation to combine references (Re; Brief, page 5).

RESPONSE

A. Examiner believes that a *prima facie* Case of Obviousness was presented with regards to the combination of Shrader and Parathesarathy.

Regarding Appellants argument for lack of motivation in the 103 rejection of 11/10/04, the prior art used, i.e. Shrader and Parathesarathy are analogous art and both deal with updating and installing software in a networked environment.

Although, the primary reference Shrader, was disclosed as not teaching providing “location information for all software prerequisites”, Shrader does

disclose that, "...As part of the commit process, the installation plan object is prevalidated by examining its child objects (prerequisites) and adding additional child objects to the installation plan object...The validation step checks file directories on a target workstations which are specified as data in the installation plan object (super image)..." Emphasis added, (Shrader, 2:47 – 66).

Examiner interpreted this as providing location information of the prerequisites since the file directories are specified as data in the installation plan object.

Although, the portion of Shrader pointed out by Examiner in the Advisory Action of 09/12/05 as pointed out by Appellant doesn't teach the super image, however, the super image was disclosed as being taught by Shrader in the Final rejection of 11/10/04, in column 2: 40 – 45 and further disclosed on lines 57 – 67.

The installation plan object as taught in the cited portions of Shrader above discloses the validation step which is part of the installation plan object that is delivered to the target machine, and which is able to determine the directories/location of the file objects.

Examiner believes that the cited portions of Shrader does teach obtaining of location information for the software prerequisites (interpreted as child objects in Shrader) that is delivered to the local machines (target workstation) as part of a super image (installation plan object).

Futhermore, since Shrader does disclose and/or suggest location information/file directories stored as data in the install package/installation plan object, there is therein provided a suggestion and/or motivation for combining

Shrader and Parathesarathy and therefore, a *pima facie* Case of Obviousness was established.

ARGUMENT

B. Appellant argues on page 7, of his brief that "Neither Shrader nor Parathesarathy teach nor suggest the obtaining of location information for the software prerequisites as part of a super image that is delivered to the local machines for installation with the super image being created" (Pg. 7, 1st Full para).

RESPONSE

B.

Contrary to Appellant's argument Examiner believes that both Shrader and Parathesarathy disclose obtaining of location information for the software prerequisites; as noted above in response (A).

Notably in Shrader, in 2:59-67, it is disclosed that, "The validation step checks file directories on a target workstation which are specified as data in the installation plan object (super image, see col. 2: 43 – 45) to determine if the file directories and file objects are physically valid and accessible on the network. The validation step also confirms existence of objects on a code server workstation which are necessary for the installation of the application on the group of workstations". (Emphasis added).

As disclosed here in Sharder the location/file directories which are checked on the target workstation are specified as data in the installation plan

object, hence the information is obtained from the install plan object when it is installed in order to perform the validation step.

Furthermore, Applicant argues on page 7 of his Brief last paragraph, Applicant argues that, in Shrader, "All of the operations are "pushed" from the Code Server, and the execution of the delivery of the software prerequisites is performed by the network installation machine, not by the local machines as claimed therein".

However, no where in Appellants claims, in claims 15 and 21 is there explicitly disclosed that the local machine performs this functionality nor is their any part of Appellants disclosure which precludes or excludes, downloading as supposed to pushing or pulling content during distribution. And hence, Appellant appears to be arguing for a limitation not presented in claims.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Chuck Kendall

ck 6/7/07

May 23, 2007

Conferees:

Tuan Dam (SPE, AU 2192).

[Signature]
TUAN DAM
SUPERVISORY PATENT EXAMINER

Wei Zhen, (SPE AU 2191).

[Signature]
WEI ZHEN
SUPERVISORY PATENT EXAMINER